

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Bowdish et al.

Application No.: 10/583,056

Confirmation No.: 8249

Filed: March 16, 2007

Art Unit: 1644

For: NOVEL ANTI-DC-SIGN ANTIBODIES

Examiner: G. R. Ewoldt

RESPONSE TO RESTRICTION REQUIREMENT

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Madam:

In response to the restriction requirement set forth in the Office Action mailed May 8, 2009, Applicants hereby elect Group I (claims 1-9, 12-13, 19-20, 31-32, and 35), drawn to an antibody that binds to human DC-SIGN and comprises an amino acid sequence having at least 80% homology to SEQ ID NO: 45. Claims 1-9, 12-13, 19-20, 31-32, and 35 are readable on the elected group.

On page 4 of the Office Action, the Examiner states that "if any of Groups I or II should be elected, the reply to this requirement to be complete must include an election of species" (paragraph 10). However, Applicants believe that the Examiner's requirement for a species election, as set forth in paragraphs 9A and 9B, is not applicable to Group I. In particular, Applicants note that paragraph 9A requires Applicants to "elect a specific method, such as one of those set forth in Claims 14-18 and 36-47." Claims 14-18 and 36-47 are directed to the subject matter of Group XIX (page 3 of the Office Action). None of the claims in Group I recite a specific method. Similarly, Applicants believe that paragraph 9B, which requires Applicants to "further indicate whether or not

the antibody further comprises a toxin or a high energy radiation emitter," is not applicable to Group I, since none of the claims in Group I recite a toxin or a high energy radiation emitter. Applicants believe that the references to Groups I and II in paragraphs 6, 9 and 10 of the Office Action are in error and that possibly it was intended for the Office Action to refer to Groups XIX and XX instead of to Groups I and II.

Applicants' representative has attempted to contact the Examiner to clarify the Examiner's requirement for a species election, but has not received an answer from the Examiner. For the reasons stated above, Applicants have not elected a species as set forth in paragraphs 9A and 9B. Should the Examiner wish to maintain the requirement for a species election, Applicants request clarification of the relationship of the subject matter of Group I to the species as set forth in paragraphs 9A and 9B.

Applicants' response is not an acquiescence to the Examiner's requirement for restriction or election. Applicants reserve the right to file a continuing application or take such other appropriate action as deemed necessary to protect the non-elected inventions. Applicants do not hereby abandon or waive any rights in the non-elected inventions.

Applicants believe no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 18-1945, under Order No. ALEX-P01-112 from which the undersigned is authorized to draw.

Dated: June 8, 2009

Respectfully submitted,

By _____/Tianxin Chen/_____
Tianxin (Cynthia) Chen, Ph.D., J.D.
Registration No.: 61,193
ROPES & GRAY LLP
One International Place
Boston, Massachusetts 02110
(617) 951-7000
(617) 951-7050 (Fax)
Attorneys/Agents For Applicant